

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CARL LANE,	)	
	)	Civil Action No. 11 – 893
Plaintiff,	)	
	)	District Judge Donetta W. Ambrose
v.	)	Chief Magistrate Judge Lisa Pupo Lenihan
	)	
RICHELLE L. ZIRKLE, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

This action was initiated by Carl Lane (“Plaintiff”) on October 12, 2011, and referred to United States Magistrate Judge Lisa Pupo Lenihan for all pretrial proceedings in accordance with the Magistrate Judge’s Act, 28 U.S.C. § 636(b)(1), and Local Rules of Court for Magistrate Judges. Defendants filed a Motion for Summary Judgment (ECF No. 32), and in a Report and Recommendation dated December 21, 2013, the Magistrate Judge recommended that the Motion be granted on the ground that Plaintiff failed to exhaust his administrative remedies with respect to each of his claims (ECF No. 49). To the extent Plaintiff arguably exhausted his administrative remedies with respect to his retaliation claim, she recommended that Defendants’ Motion be granted on that claim in the alternative. (ECF No. 49.) Plaintiff was served with the Report and Recommendation at his listed address and advised that he had until January 7, 2013, to file written objections. No objections were filed and the time to do so has expired.

As such, after *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered.

AND NOW, this 15<sup>th</sup> day of January, 2013,

**IT IS HEREBY ORDERED** that the Defendants' Motion for Summary Judgment (ECF No. 32) is **GRANTED** on the ground that Plaintiff failed to exhaust his administrative remedies with respect to each of his claims. The Motion is granted in the alternative to the extent Plaintiff arguably exhausted his administrative remedies with respect to his retaliation claim.

**IT IS FURTHER ORDERED** that the Report and Recommendation of Magistrate Judge Lenihan dated December 21, 2013 (ECF No. 49) is adopted as the opinion of this Court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:



Donette W. Ambrose  
United States District Judge

cc: **Carl Lane**  
AS-1293  
SCI Houtzdale  
PO Box 1000  
Houtzdale, PA 16698  
*Via U.S. Postal Mail*

Counsel of Record  
*Via ECF Electronic Mail*